

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7156

Petition of UPC Vermont Wind, LLC, for a Certificate of)
Public Good, pursuant to 30 V.S.A. § 248, authorizing the)
construction and operation of a 52 MW wind electric)
generation facility, consisting of 26 wind turbines, and)
associated transmission and interconnection facilities, in)
Sheffield and Sutton, Vermont)

Order entered: 9/17/2008

ORDER RE RPI'S MOTION FOR RELIEF

On August 11, 2008, Ridge Protectors, Inc. ("RPI") filed a motion with the Public Service Board ("Board") requesting (1) that the Board rescind UPC Vermont Wind, LLC's ("Vermont Wind")¹ Certificate of Public Good ("CPG") if it does not file a power purchase agreement with the Board and parties, and (2) that the Board allow parties to re-litigate issues in the case.

In this Order, we deny RPI's motion.

Positions of Parties

RPI contends that if Vermont Wind does not file a power purchase agreement by a set date, the Board should rescind or withdraw the Certificate of Public Good. Additionally, RPI contends that:

so much time has now passed since the Board's decision . . . [that] . . . the Board should require a re-noticing of an opportunity for hearing when and if it receives the power purchase agreements giving the public the right to raise any issue not previously litigated . . . including raising previously litigated issues where there is significant new and relevant information.

On August 20, 2008, Vermont Wind filed a letter raising three objections to RPI's motion. First, Vermont Wind states that it has complied with the CPG's condition regarding power purchase contracts. The condition imposed by the Board required Vermont Wind to file a status

1. On August 20, 2008, UPC Vermont Wind, LLC filed a letter with the Board stating that it had changed its name to Vermont Wind, LLC.

report within 90 days of the CPG date and prohibited Vermont Wind from commencing construction without Board approval of revised power purchase contracts. Vermont Wind asserts that it has complied with this requirement. Second, Vermont Wind states:

It is disingenuous at best for RPI first to appeal the CPG in an effort to reverse the Board's decision approving the Project (which it certainly has the legal right to do), while now complaining that Vermont Wind has been dilatory in pursuing development of the Project.

Third, Vermont Wind states that "RPI has provided no legal or factual basis to justify reopening the record." Finally, Vermont Wind asserts that the Board does not have jurisdiction to amend or rescind the CPG because of RPI's pending appeal in the Vermont Supreme Court.

On September 3, 2008, RPI filed a reply to Vermont Wind's August 20 letter. RPI contends that Vermont Wind has not explained why an adequate contract has not been reached, as required by the CPG. RPI additionally asserts that the Board would have jurisdiction to rescind the CPG if a hearing demonstrated that a condition had not been met. Finally, RPI provides information that it contends has arisen since the issuance of the CPG and is relevant to whether the CPG should be rescinded.

No other party filed comments on RPI's motion.

Discussion

Vermont Wind has, to date, complied with the requirements contained in the CPG, including the condition regarding power purchase agreements. In addition, RPI has effectively put the Project on hold due to its appeal of the Board's Order approving the Project.² Yet RPI is now stating that Vermont Wind's failure to construct the Project is reason to reexamine the CPG for the Project.

RPI has not provided any rational basis for the Board to determine that Vermont Wind has failed to comply with the CPG conditions, or to reopen the record in this case. RPI's motion is denied.

2. Although Board orders are not automatically stayed pending appeal and UPC could legally go forward, it presumably makes no economic sense to do so.

SO ORDERED.

Dated at Montpelier, Vermont, this 17th day of September, 2008.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: September 17, 2008

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)